



DEPARTMENT OF VETERANS AFFAIRS

8320-01

38 CFR Part 17

RIN 2900-AP21

Vet Centers

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) adopts as final an interim final rule that amends its medical regulation that governs Vet Center services. The National Defense Authorization Act for Fiscal Year 2013 (the 2013 Act) requires Vet Centers to provide readjustment counseling services to broader groups of veterans, members of the Armed Forces, including a member of a reserve component of the Armed Forces, and family members of such veterans and members. This final rule adopts as final the regulatory criteria to conform to the 2013 Act, to include new and revised definitions.

DATES: Effective date: [Insert date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Michael Fisher, Readjustment Counseling Service (10RCS), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420; (202) 461-6525. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On August 4, 2015, VA published in the Federal Register an interim final rule that implemented the National Defense Authorization Act for Fiscal Year 2013, Public Law 112–239 (Jan. 2, 2013) (the 2013 Act). 80 FR 46197. VA invited interested persons to submit comments on the interim final rule on or before October 5, 2015, and we received one comment. The commenter questioned why the rulemaking is including individuals who remotely control unmanned aerial vehicles as individuals who are entitled to receive readjustment counseling services and how has VA and the Department of Defense assessed the need for such services for this group of individuals. The requirement to provide readjustment counseling to individuals who remotely control unmanned aerial vehicles is mandated by Public Law 112–239, which is implemented by this rulemaking. We do not make any changes based on this comment.

Finally, we make a technical edit to paragraphs (b) and (e) to ensure that these provisions are easier to understand. As amended in the interim final rule, the first sentence of the introductory paragraph to paragraph (b) read “With the veteran's or member's of the Armed Forces, including a member of a reserve component of the Armed Forces, consent, VA will assist in obtaining proof of eligibility.” We determined that this amendatory language was grammatically incorrect. We are now amending this sentence to read “With the consent of the veteran or member of the Armed Forces, including a member of a reserve component of the Armed Forces, VA will assist in obtaining proof of eligibility.” The first sentence of paragraph (e) was similarly incorrect and read “Benefits under this section are furnished solely by VA Vet Centers, which

maintain confidential records independent from any other VA or Department of Defense medical records and which will not disclose such records without either the veteran's or member's of the Armed Forces, including a member of a reserve component of the Armed Forces, voluntary, signed authorization, or a specific exception permitting their release." This sentence now reads "Benefits under this section are furnished solely by VA Vet Centers, which maintain confidential records independent from any other VA or Department of Defense medical records and which will not disclose such records without the voluntary signed authorization of the veteran or member of the Armed Forces (including a member of a reserve component of the Armed Forces), or where a specific exception permits disclosure."

Based on the rationale set forth in the interim final rule and in this document, VA is adopting the provisions of the interim final rule as a final rule making only technical edits.

Administrative Procedure Act

In accordance with U.S.C. 553(b)(B) and (d)(3), the Secretary of Veterans Affairs concluded that there was good cause to publish this rule without prior opportunity for public comment and to publish this rule with an immediate effective date. This final rule incorporates a specific program requirement mandated by Congress in Public Law 112–239. The Secretary finds that it is impracticable and contrary to the public interest to delay this rule for the purpose of soliciting advance public comment or to have a delayed effective date. This rule will increase the pool of individuals who are eligible to

receive mental health care at Vet Centers. This rule will also increase access to much needed mental health care services in Vet Centers. For the above reason, the Secretary, through this rulemaking, adopts as final an interim final rule in which we provided prior notice and opportunity for the public to comment.

Effect of Rulemaking

Title 38 of the Code of Federal Regulations, as revised by this final rulemaking, represents VA's implementation of its legal authority on this subject. Other than future amendments to this regulation or governing statutes, no contrary guidance or procedures are authorized. All existing or subsequent VA guidance must be read to conform with this rulemaking if possible or, if not possible, such guidance is superseded by this rulemaking.

Paperwork Reduction Act

Although this action contains provisions constituting collections of information, at 38 CFR 17.2000, under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521), no new or proposed revised collections of information are associated with this final rule. The information collection requirements for § 17.2000 are currently approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 2900–0787.

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule directly affects only individuals and will not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a “significant regulatory action” requiring review by OMB, unless OMB waives such review, as “any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations

of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.”

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at <http://www.regulations.gov>, usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's Web site at <http://www.va.gov/orpm/>, by following the link for VA Regulations Published from Fiscal Year 2004 to Fiscal Year to Date.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. This final rule will have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are as follows: 64.009, Veterans Medical Care Benefits; 64.018, Sharing Specialized Medical Resources; 64.019, Veterans Rehabilitation

Alcohol and Drug Dependence; and 64.024, VA Homeless Providers Grant and Per Diem Program.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Robert D. Snyder, Interim Chief of Staff, Department of Veterans Affairs, approved this document on February 25, 2016, for publication.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Drug abuse, Health care, Health facilities, Homeless, Mental health programs, Veterans.

Dated: February 26, 2016

William F. Russo
Director
Office of Regulation Policy & Management,
Office of the General Counsel,
Department of Veterans Affairs.

For the reasons stated in the preamble, the interim rule published August 4, 2015, at 80 FR 46197, is adopted as final without change.

[FR Doc. 2016-04552 Filed: 3/1/2016 8:45 am; Publication Date: 3/2/2016]